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May 22, 2022

VIA ECF

Hon. Madeline Cox Arleo, U.S.D.J.
US District Court for the District of NJ
Martin Luther King Jr. Bldg. & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07102

Re: *Absorption Pharmaceuticals, LLC v. Reckitt Benckiser LLC*
Civil Action No.: 2:17-cv-12872 (MCA)(JSA)

Dear Judge Arleo:

This firm, together with Proskauer Rose LLP, represents Plaintiff Absorption Pharmaceuticals LLC ("Absorption") in the above-referenced matter. The parties continued to discuss the dispute concerning Dr. Erdem over the weekend in the hopes of resolving Defendants Reckitt Benckiser, LLC and RB Health (US) LLC's ("Reckitt") application that the Court permit it to call Dr. Tulin Erdem to testify as an expert. ECF No. 425. Subject to the Court's approval, Absorption proposed that it would not oppose Dr. Erdem testifying during trial provided that Reckitt agreed to the following:

1. No witness, including Dr. Erdem, will reference Professor Gary Frazier or the fact that Dr. Erdem was responding to another expert during the course of their testimony; and
2. Counsel for Reckitt will not reference in any way (i) Dr. Frazier, and/or (ii) the fact that Absorption has not offered an expert witness on the issue of independent economic value or the general subject matter of Dr. Erdem's testimony.

Unfortunately, Absorption's offered resolution was not accepted by Reckitt. Absorption respectfully submits that its offer is a fair resolution of the dispute, addresses the issues Your Honor raised during oral argument on Friday, and resolves any prejudice asserted by the parties. Accordingly, if Your Honor is inclined to grant Reckitt's application Absorption respectfully requests that it be permitted subject to the conditions set forth above.

In addition, should the Court permit Dr. Erdem to testify, Reckitt has requested that she be called as the first witness tomorrow to ensure that her testimony is concluded tomorrow given her unavailability thereafter and to avoid interrupting Ms. Lawton's testimony. Although Reckitt's request was part of the overall resolution the parties were discussion, if Dr. Erdem is permitted to testify Absorption consents to Reckitt's requested order of witness presentation tomorrow.

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Absorption appreciates the Court's consideration and looks forward to seeing Your Honor tomorrow.

Respectfully submitted,

Liza M. Walsh

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cc: All Counsel of Record (via email)